

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANDREW GAZZENY,  
Petitioner,

v.

KEVIN R. CHAPPELL, Warden,  
Respondent.


Case No. 14-cv-03800-HSG (PR)

**ORDER OF DISMISSAL**

On January 14, 2015, the Court denied petitioner's application to proceed in forma pauperis in this habeas action and directed him to pay the \$5.00 filing fee by February 25, 2015. On January 30, 2015, petitioner filed a prison trust fund statement with the following handwritten notation, "Filing Fee Check for \$5.00 enclosed." *See* Dkt. No. 6 at 4. On March 10, 2015, the Court entered an order informing petitioner that the Court's financial office had no record of the filing fee having been paid for this action. The Court extended to March 31, 2015, the deadline for petitioner to pay the \$5.00 filing fee and advised him that his failure to do so would result in the dismissal of this action for failure to prosecute under Federal Rule of Civil Procedure 41(b). On March 30, 2015, petitioner filed a motion for an extension of time to April 15, 2015 to pay the filing fee. April 15, 2015 had now passed, and petitioner still has not paid his filing fee. Accordingly, this federal habeas action is **DISMISSED** without prejudice for failing to respond to the Court's order, and for failure to prosecute, *see* Fed. R. Civ. P. 41(b). Because this dismissal is without prejudice, petitioner may move to reopen the action. Any such motion **must** contain a complete IFP application **or** full payment for the \$5.00 filing fee. The Clerk shall terminate Docket No. 8, enter judgment in favor of respondent, and close the file.

**IT IS SO ORDERED.**

Dated: 4/27/2015

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge